IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NOs: 1130 and 23645 of 1996

-

W.P.No.1130 of 1996:

Between:

1. No.913138952, Md. Ahsan, S/o Md.Osman, aged 28 years, Wardboy.
2. No.841110279, Mr.A.K.Parida, S/o Dadhi Chandra Pariah, N/Asst.
3. No.690515763, K.Gopalan Nair, S/o K.Govindan Nair, Cook.
4. No.921000499, Satbir Singh, S/o Umed Singh, S/o Safai Karamchari.
5. No.920990478, Kailash Chand, S/o Sri Ranjit Singh, N/ Assistant (Nursing Assistant).
6. No.930990025, Mrs. Ponnumani Nair, W/o late G.D.Nair, N/Assistant.

(All are working in 2nd Base Hospital, CRPF,

Chandrayanagutta, Hyderabad and Group Centre, Ranga

Reddy)

..... PETITIONERS

AND

1 The Union of India, rep. by its Secretary, Ministry of Home Affairs,

North Block, New Delhi.
2 The Union of India, rep. by its Secretary, Ministry of Health &

Family Welfare, New Delhi - 3
3 The Director General of Police, Central Reserve Police Force,

Lodi Road, CGO Complex, New Delhi.
4 The Inspector General of Police, Rapid Action Force, Central

Reserve Police Force, East Block No.II, Leval R.K.Puram, New

Delhi –66.

5. The Commandant, 99 Bn., Rapid Action Force, Central Reserve Police Force, Hakimpet, Secunderabad-14.

6. The Deputy Director (Medical), Dte. General, CRPF, Lodi Road, CGD Complex, New Delhi – 110 003.

7. The Chief Medical Officer, Unit Hospital, 99 Bn. Rapdi Action Force, Central Reserve Police Force,
Hakimpet, Secunderabad.

.....RESPONDENTS.

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of Mandamus or any other appropriate writ or order or direction in the nature of a writ declaring the action of the respondents in not paying the allowance called patient care allowance to the petitioners on par with the other Hospitals Staff of the Central Reserve Police Force and the Hospital Staff of the Central Government Hospitals as illegal, arbitrary, discriminatory, and violative of the principles of natural justice and as violative of the Articles 14 and 16 of the Constitution of India and to direct the respondents to pay patient care allowance to the petitioners with all arrears with effect from 01-04-19878.

Counsel for the Petitioners: MR.J.V.PRASAD

Counsel for the Respondent Nos.1 to 7: Mr. GANGA RAO, ADDL.STANDING COUNSEL FOR CENTRAL GOVERNMENT.

WRIT PETITION NO : 23645 of 1996

Between:

1 No. 832082425, B.N.Reddy, S/o. Rami Reddy, aged 52 years,

Head Constable.
2 No. 752080073, Sheikh Ahmed, s/o. Sheikh Meera,

Aged 46 years.
(Working at 2nd Base Hospital, Central Reserve Police Force,

Chandrayanagutta, Hyderabad-5.)

..... PETITIONERS.

AND

1 The Union of India, rep. by its Secretary, Ministry of Home Affairs,

North Block, New Delhi.
2 The Union of India, rep. by its Secretary, Ministry of Health &

Family Welfare, New Delhi – 3.
3 The Director General, Central Reserve Police Force, Lodi Road,

CGO Complex, New Delhi.
4 The Inspector General of Police, Central Reserve Police Force,

Road No.12, Banjara Hills, Hyderabad-34.
5 The Chief Medical Officer, 2nd Base Hospital, Central Reserve

Police Force, Chandrayanagutta, Hyderabad- 5

.....RESPONDENTS.

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of Mandamus or any other appropriate writ or order or direction in the nature of a writ declaring the action of the respondents in not paying the allowance called patient Care allowance to the petitioners on par with the other Hospitals Staff of the Central Reserve Police Force and the Hospital Staff of the Central Government Hospitals, as illegal, arbitrary, discriminatory, and violative of the principles of natural justice and as violative of the Articles 14 and 16 of the Constitution of India and the equality clause enshrined in Art. 39 (d) of the Constitution of India and to direct the respondents to pay patient Care Allowance to the petitioners with all arrears with effect from 1-4-1987.

Counsel for the Petitioners: MR.J.V.PRASAD

Counsel for the Respondent Nos.1 to 5: MR.K.MANIK PRABHU, Addl.Standing Counsel for Central Government.

The Court made the following:

-

-

-

-

-

-

-

-

-

-

-

COMMON ORDER:

The petitioners are combatised staff working in the Central Reserve Police Force currently at Secunderabad. The writ petition is filed for a declaration that the action of the respondents in not paying patient care allowance to the petitioners on par with the other Hospital staff of the Central Reserve Police Force and the Hospital staff of the Central Government, is illegal, arbitrary, discriminatory and violative *inter alia* of Articles 14 and 16 of the Constitution of India and for a direction to the respondents to pay patient care allowance to them with all arrears with effect from 01-04-1987.

The right of the non-combatised hospital staff to receive patient care allowance is no longer *res integra*. Non-combatised staff have been held entitled to patient care allowance by the Central Administrative Tribunal. Aggrieved whereby the respondents approached the Supreme Court and on the dismissal of the Special Leave Petitions, against such orders, the non-combatised staff uniformly have been extended the benefit of the patient care allowance.

Insofar as combatised hospital staff are concerned, persons identically circumstanced as the petitioners and constituting a similar class of employees had also litigated for extension of the patient care allowance. They succeeded before the Tribunal at the first instance and the matter was also carried in appeal by way of Special Leave Petition to the Supreme Court in Civil Appeal No.11996 of 1996. By order dated 17-10-2001, the Supreme Court dismissed the Special Leave Petition. Consequently, the Ministry of Defence, Department of Expenditure had issued a memo dated 14-01-2002 deciding to implement the patient care allowance benefit to those combatised personnel who were applicants before the Tribunal. Sri J.V.Prasad, learned counsel for the petitioners states that as the petitioners constitute an identical class with the other litigants/applicants for whom the respondents have decided by the memo dated 14-01-2002 to implement the patient care allowance benefits, the petitioners being in law and equity entitled to equality and parity of treatment, a Mandamus be issued. This contention of the petitioners commends acceptance by this Court.

It is contended on behalf of the respondents, by the learned Standing Counsel for the Central Government, that implementation of the patient care allowance benefit to all non-combatised hospital staff would entail enormous expenditure and, therefore,

the official respondents have decided by the memo dated 14-01-2002 to restrict the benefit only to such of those applicants who had already approached the Courts/Tribunals.

The petitioners herein have instituted this writ petition on 24-01-1996. More than eight years have passed. Therefore, they cannot be non-suited on the ground of not having approached the Court in time, as they are seen to be the diligent in the pursuit of remedies for their grievance. It is not disputed that the petitioners constitute an identical class with other non-combatised hospital staff who have been extended the benefit of patient care allowance by the memo dated 14-01-2002.

In the facts and circumstances above, the petitioners are also entitled to the benefit of patient care allowance. It is further seen that the petitioners not only seek extension of the patient care allowance benefit but also arrears with effect from 01-04-1987. The writ petition has been filed in the year 1996; extension of the benefit with arrears from 1987 would involve an untoward burden on the current budgetary packages. In the circumstances, in the considered view of this Court, public interest and equity to the petitioners could be managed and harmonized by restricting the benefit of arrears to the petitioners by declaring their entitlement to arrears of patient care allowance benefits only with effect from January, 1996 and in future.

In the result, the petitioners shall be entitled to and the respondents obligated to, pay the petitioners the benefit of patient care allowance along with other combatised hospital staff of the Central Reserve Police Force, so, however that the arrears of such entitlement shall be paid to the petitioners only with effect from January, 1996. The writ petitions are allowed accordingly. No order as to costs.

_____

GODA RAGHURAM, J

Dated: 07-10-2004.

Chvn.

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this the Thursday, the seventh day of October, Two thousand and four.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Secretary, Ministry of Home Affairs, Union of India,

North Block, New Delhi.
2 The Secretary, Ministry of Health & Family Welfare, Union of India,

New Delhi – 3.
3 The Director General of Police, Central Reserve Police Force,

Lodi Road, CGO Complex, New Delhi.
4 The Inspector General of Police, Rapid Action Force, Central

Reserve Police Force, East Block No.II, Leval R.K.Puram, New

Delhi –66.

5. The Commandant, 99 Bn., Rapid Action Force, Central Reserve

Police Force, Hakimpet, Secunderabad-14.

6. The Deputy Director (Medical), Dte. General, CRPF, Lodi Road,

CGD Complex, New Delhi – 110 003.

8. The Chief Medical Officer, Unit Hospital, 99 Bn. Rapdi Action Force, Central Reserve Police Force,
Hakimpet, Secunderabad.

9. Two C.D. copies.